

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lydia Woolley	Team: Squad #13	CCRB Case #: 202103282	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/12/2021 3:15 PM	Location of Incident: § 87(2)(b)	Precinct: 33	18 Mo. SOL 11/12/2022	EO SOL 11/12/2022	
Date/Time CV Reported Sun, 05/30/2021 12:34 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/30/2021 12:34 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Yorkt Peraltadeljesus	16723	967645	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Joel Medina	16646	967601	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Yorkt Peraltadeljesus	Abuse: Police Officer Yorkt Peraltadeljesus entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B. PO Yorkt Peraltadeljesus	Abuse: Police Officer Yorkt Peraltadeljesus searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
C. PO Yorkt Peraltadeljesus	Force: Police Officer Yorkt Peraltadeljesus used physical force against § 87(2)(b)	§ 87(2)(b)
D. PO Yorkt Peraltadeljesus	Abuse: Police Officer Yorkt Peraltadeljesus threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E. PO Yorkt Peraltadeljesus	Abuse: Police Officer Yorkt Peraltadeljesus failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
F. PO Yorkt Peraltadeljesus	Abuse: Police Officer Yorkt Peraltadeljesus failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

On May 30, 2021, § 87(2)(b) filed this complaint via the CCRB's website, on behalf of herself and the father of her children, § 87(2)(b).

On May 12, 2021, at approximately 3:15 p.m., PO Yorkt Peraltadeljesus and PO Joel Medina, both of the 44th Precinct, arrived at § 87(2)(b) in Manhattan, to assist an ACS worker, § 87(2)(b) in seeing § 87(2)(b)'s seven-year-old son, § 87(2)(b). § 87(2)(b) answered the door, and PO Peraltadeljesus entered the apartment (**Allegation A: Abuse of Authority, § 87(2)(g)**, **Allegation B: Abuse of Authority, § 87(2)(g)**). PO Peraltadeljesus allegedly pushed § 87(2)(b) (**Allegation C: Force, § 87(2)(g)**) and allegedly pointed his Taser at her (**Allegation D: Abuse of Authority, § 87(2)(g)**, § 87(2)(b), § 87(2)(b)'s father, retrieved § 87(2)(b) showed him to the officers and § 87(2)(b) and then left the apartment. PO Peraltadeljesus did not offer either civilian his business card (**Allegations G-J: Abuse of Authority, § 87(2)(g)**). No arrest or summons resulted from this incident.

Body-worn camera (BWC) footage of this incident was obtained from the NYPD Legal Bureau for PO Peraltadeljesus and PO Medina. The footage is attached to IAs #75-76 (**Board Review 01-02**) and summarized in IAs #83-84 (**Board Review 03-04**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Yorkt Peraltadeljesus entered § 87(2)(b) in Manhattan.

Allegation (B) Abuse of Authority: Police Officer Yorkt Peraltadeljesus searched § 87(2)(b) in Manhattan.

Allegation (C) Force: Police Officer Yorkt Peraltadeljesus used physical force against § 87(2)(b).

Allegation (D) Abuse of Authority: Police Officer Yorkt Peraltadeljesus threatened § 87(2)(b) with the use of force.

Allegation (E) Abuse of Authority: Police Officer Yorkt Peraltadeljesus failed to provide § 87(2)(b) with a business card.

Allegation (F) Abuse of Authority: Police Officer Yorkt Peraltadeljesus failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that earlier in the afternoon, she was in her apartment when she received an unscheduled visit from § 87(2)(b) who was investigating a report of educational neglect regarding § 87(2)(b)'s 12-year-old daughter, § 87(2)(b) who had not been attending online school during the COVID-19 pandemic (**Board Review 05**). § 87(2)(b) toured the apartment and interviewed § 87(2)(b) and § 87(2)(b). § 87(2)(b) asked if she could speak to § 87(2)(b)'s other children, and § 87(2)(b) said § 87(2)(b) does not permanently live with her – he lives separately with § 87(2)(b) – and was not involved in the case, so § 87(2)(b) could not see him. § 87(2)(b) left the apartment. Approximately 10 minutes later, § 87(2)(b) heard banging on the front door. She looked through the peephole and saw PO Medina and PO Peraltadeljesus, identified via investigation, with § 87(2)(b). She asked why they were there, and the officers said they needed to see § 87(2)(b)'s child.

§ 87(2)(b) said § 87(2)(b) told her to speak with the officers, so she opened the door. She said the officers could not come into the apartment without a warrant. PO Peraltadeljesus placed his foot in the door frame, blocking its closure, pushed the door open, and walked past the doorframe, into the interior hallway of the apartment. He appeared to unclip his gun. § 87(2)(b) screamed that he was trying to kill her and that he could not come inside. PO Peraltadeljesus continued walking forward and pushed § 87(2)(b) back by pressing his chest against her. He pulled out a black

object which § 87(2)(b) believed to be a Taser and pointed it at her. § 87(2)(b) moved in front of § 87(2)(b) and asked what the officers wanted. PO Peraltadeljesus, who was standing approximately six feet inside the front door, said they needed to show the officers their child. § 87(2)(b) said he would get § 87(2)(b) who was asleep, went to his bedroom, and carried him out. The officers appeared to inspect § 87(2)(b)'s appearance. § 87(2)(b) standing outside the apartment, said she was “good” and left with the officers, who did not offer their business cards.

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s, though he did not mention a Taser being pointed at § 87(2)(b) or anyone else during the encounter (**Board Review 06**).

§ 87(2)(b)'s statement was consistent with § 87(2)(b)'s and § 87(2)(b)'s statements (and the below BWC footage) (**Board Review 07**). After § 87(2)(b) refused to let her see § 87(2)(b) during her morning visit, § 87(2)(b)'s supervisor told her to contact the police for assistance. § 87(2)(b) called 911 and told them she worked for ACS and had just conducted a home visit but needed assistance in seeing an additional child in the home. § 87(2)(b) met with the officers and said she just needed to see the child whom § 87(2)(b) was refusing to let her see. The 911 call audio recording (**Board Review 08**) is largely consistent with § 87(2)(b)'s statement. Event documents and police radio communications reveal that, when the officers were assigned the job, they were told that a mother was refusing to let an ACS worker inside the home (**Board Review 9, 10**).

PO Medina's BWC footage opens without audio (**Board Review 01**). The officers and § 87(2)(b) stand in the hallway outside § 87(2)(b)'s apartment. At the 00:20 minute mark on the media-player timestamp, visible at the bottom of the screen, PO Peraltadeljesus stands in front of the door with his holstered Taser visible on the left side of his utility belt, and § 87(2)(b) cracks the door open. At 01:07, after audio has been initiated, § 87(2)(b) says her other children do not reside at the address and that the officers and § 87(2)(b) will not see them because they are not part of the case. PO Medina says he would like to come inside, and § 87(2)(b) says he cannot. At 01:20, the door closes slightly, and PO Peraltadeljesus steps toward it, placing his arm against the door and entering the threshold of the apartment by approximately one step as he holds the door open. He pulls an object which is not visible out of the right side of his utility belt and passes it to his left hand. § 87(2)(b) says he is trying to shoot her. PO Peraltadeljesus says he is not trying to shoot her, that the interaction is being recorded, and he places the object back in his utility belt. PO Peraltadeljesus' BWC footage more clearly captures the next portion of the incident.

In PO Peraltadeljesus' BWC footage, at the 01:25 minute mark on the media-player timestamp, visible at the bottom of the screen, after PO Peraltadeljesus has placed his arm on the door, § 87(2)(b) pulls § 87(2)(b) back from the door, opens it, and stands several feet from the entrance with § 87(2)(b) behind him (**Board Review 02**). § 87(2)(b) and PO Peraltadeljesus discuss § 87(2)(b)'s health concerns regarding the officer's entry. § 87(2)(b) introduces himself, says § 87(2)(b) is not relevant to the ACS case, and says he and § 87(2)(b) do not live there. § 87(2)(b) says § 87(2)(b) and § 87(2)(b) are listed in the ACS complaint. § 87(2)(b) says this is not § 87(2)(b)'s and § 87(2)(b)'s legal address. At 02:17, PO Peraltadeljesus says the officers want to check on the child. § 87(2)(b) says, “Okay, okay,” and § 87(2)(b) says no. PO Peraltadeljesus says he will walk inside and see the child, and § 87(2)(b) repeats that he cannot and says she is the lease holder of the apartment. At 02:36, PO Peraltadeljesus walks into the apartment as § 87(2)(b) says “no” several times. § 87(2)(b) turns his back to PO Peraltadeljesus and walks forward while seemingly pushing § 87(2)(b) back as she continues stating that it is her apartment and that the officers may not enter. § 87(2)(b) remains in between PO Peraltadeljesus and § 87(2)(b) and continues pushing her back as PO Peraltadeljesus walks forward several steps, then stops. From 02:50 to 03:37, § 87(2)(b) tells PO

Peraltadeljesus to leave her apartment, says the officers do not have a warrant, and tells § 87(2)(b) he does things against her stated wishes. § 87(2)(b) asks PO Peraltadeljesus if he can bring § 87(2)(b) out, PO Peraltadeljesus says yes. § 87(2)(b) walks further into the apartment and disappears from view.

In PO Medina's BWC footage, at 03:08, after § 87(2)(b) asks if he can bring § 87(2)(b) out to the officers, PO Medina stands in the doorway and asks if § 87(2)(b) needs see § 87(2)(b) or go inside. § 87(2)(b) says she can get a court order if § 87(2)(b) will not let her in, but that she needs to physically see § 87(2)(b). Between 03:35 and 04:46, § 87(2)(b) continues saying the officers should not be in her apartment, and § 87(2)(b) says he pulled § 87(2)(b) out of bed. At 04:24, § 87(2)(b) is visible through the door with § 87(2)(b)'s head on his shoulder. PO Medina asks § 87(2)(b) if she is okay and if "that's it." § 87(2)(b) discusses the case with § 87(2)(b) then says she has everything she needs and leaves with the officers.

PO Peraltadeljesus' statement was largely consistent with PO Medina's BWC footage and the civilian statements (**Board Review 11**). He said when he and PO Medina arrived, § 87(2)(b) said someone had made an ACS complaint on behalf of someone in § 87(2)(b)'s apartment, that the parents had refused to open the door, and that she had to physically see a child to ensure his wellbeing. She did not provide more specific information about the case and PO Peraltadeljesus was not aware of what kind of ACS case it was. He understood the job to be similar to a wellness check for § 87(2)(b). At some point, § 87(2)(b) gave him a copy of a typed letter which had the complaint and allegations on it, though she did not have a court order that PO Peraltadeljesus was aware of. The officers spoke with § 87(2)(b) for about one minute, then went to the apartment. § 87(2)(b) answered the door, spoke with PO Peraltadeljesus, and he put his foot in the doorway so she could not close it and in case he heard anything out of the ordinary happening inside. In response, § 87(2)(b) said PO Peraltadeljesus was trying to hit or shoot her, though his hand was on the door and his gun was holstered. § 87(2)(b) said he could not enter or see § 87(2)(b) which made PO Peraltadeljesus believe he may have been in danger. § 87(2)(b) then came to the door and said PO Peraltadeljesus could come inside, at which point PO Peraltadeljesus did not have any reason to believe § 87(2)(b) was in danger.

PO Peraltadeljesus said he entered the apartment to ensure § 87(2)(b) was not in danger, because § 87(2)(b) said he could, and because the parents initially did not want to bring § 87(2)(b) to the door. PO Peraltadeljesus did not make any physical contact with § 87(2)(b) and he initially said he did not take anything out of his belt throughout the encounter. During his CCRB interview, when presented with the portion of PO Medina's BWC in which he stands at the door and takes an object out of his belt, PO Peraltadeljesus then said he took out his baton to block the door from being slammed on his hand in case § 87(2)(b) tried to close it. He put it back in his belt because she backed away from the door. PO Peraltadeljesus did not offer either civilian a business card because he did not stop them, have an investigative encounter with them, search them, physically touch them, or ask any accusatory questions, and because the civilians did not ask for his name or business card.

PO Medina's statement (**Board Review 12**) was consistent with PO Peraltadeljesus' statement and an entry in his own memo book, in which he noted that he felt § 87(2)(b) was in danger (**Board Review 13**). He testified that this note was based on the fact that § 87(2)(b) needed to physically see the child. He also included a photograph of a document which § 87(2)(b) showed the officers. The document listed § 87(2)(b), § 87(2)(b) and an "unknown" child as part of an ACS case which was in the "initial" stage of intake and had no sensitive issues or worker safety issues.

People v. Daye, 2018 N.Y. Misc., found that when an ACS worker asks police for assistance in ensuring the welfare of a child but there is no search warrant or court order which states that ACS must enter the home, and the ACS worker does not specify what happened during a previous visit; say there is an emergency situation or that she must gain immediate access to prevent an emergency; or request that the officers do anything specific to gain access to a home, officers lack an objective, reasonable basis to unilaterally decide to enter and search a home (**Board Review 15**). According to NYC Administrative Code § 14-173, a search which is not conducted pursuant to either a warrant, exception to the warrant requirement, probable cause, or lawful arrest, may be conducted if an officer asks consent to search, explains that the civilian may refuse the search, and the subject of the search consents voluntarily (**Board Review 16**). Georgia v. Randolph, 547 U.S. 103, states that officers may not enter someone's home based on consent when one tenant refuses their entry and another consents to it (**Board Review 18**). NYC Administrative Code § 14-173 states that when searches of person or property are conducted and are not pursuant to an arrest or summons, officers must provide their business cards to the subject of the search (**Board Review 17**).

While PO Peraltadeljesus said he believed § 87(2)(b) may have been in danger after speaking to § 87(2)(b) § 87(2)(g)

Further, PO Peraltadeljesus, PO Medina, and § 87(2)(b) were consistent in stating that § 87(2)(b) did not provide specific details regarding the ACS complaint that indicated § 87(2)(b) was in danger, request that the officers enter the apartment, or have a court order to enter the apartment. Despite testifying that he did not believe § 87(2)(b) was in danger after speaking to his parents, PO Peraltadeljesus made the unilateral decision to enter the apartment without discussing the entry with his partner or § 87(2)(b) (therefore, Allegations A and B have been pled solely to him). § 87(2)(g)

Additionally, while the BWC footage corroborates the officers' consistent testimony that § 87(2)(b) said to come in after PO Peraltadeljesus asked him if he could go inside, this occurred after § 87(2)(b) had repeatedly told the officers that they could not come inside, and without PO Peraltadeljesus explaining that § 87(2)(b) could refuse his entry.

§ 87(2)(g)

The BWC footage corroborates PO Medina's and PO Peraltadeljesus' consistent statements that PO Peraltadeljesus did not make any physical contact with § 87(2)(b) who was standing behind § 87(2)(b) by the time PO Peraltadeljesus entered the home. While § 87(2)(b) stated that PO Peraltadeljesus withdrew a black object that she believed to be a Taser and pointed it at her, PO Peraltadeljesus and PO Medina were consistent in describing the object he withdrew from his belt as an asp, and the BWC footage shows he pulled it out from the right side of his utility belt while his Taser remained on the left side, held it against the door in a motion consistent with blocking it from being slammed, and then returned it to his utility belt shortly thereafter. § 87(2)(g)

§ 87(2)(b) BWC footage does not capture PO Peraltadeljesus withdrawing a Taser, pointing it at § 87(2)(b) or pushing § 87(2)(b) § 87(2)(g)

While PO Peraltadeljesus said he did not provide § 87(2)(b) or § 87(2)(b) with a business card § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been party (**Board Review 19, 20**).
- PO Medina has been a member-of-service for three years, and this is the first CCRB complaint to which he has been a subject.
- PO Peraltadeljesus has been a member-of-service for three years, and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 22, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 21**).

- § 87(2)(b)

Squad: 13

Investigator: Lydia Woolley Inv. Lydia Woolley 08/03/2022
Signature Print Title & Name Date

Squad Leader: Laura Kastner IM Laura Kastner 08/03/2022
Signature Print Title & Name Date